

Order

Michigan Supreme Court
Lansing, Michigan

April 7, 2006

Clifford W. Taylor,
Chief Justice

130283

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

CHARLES STARKS, JR.,
Plaintiff-Appellant,

v

SC: 130283
COA: 257127
Macomb CC: 01-005581-CZ

MICHIGAN WELDING SPECIALISTS,
INC., and AUGUST F. PITONYAK,
Defendants-Appellees.

On order of the Court, the application for leave to appeal the November 29, 2005 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other preemptory action. MCR 7.302(G)(1). The parties are directed to file supplemental briefs within 56 days of the date of this order addressing: (1) whether defendant is liable to plaintiff under the fifth narrow exception to the traditional rule of a corporation purchaser's nonliability for the purchased corporation's liabilities, when the purchase is accomplished by an exchange of cash for assets — that is, "where the transferee corporation was a mere continuation or reincarnation of the old corporation," *Foster v Cone-Blanchard*, 460 Mich 696, 702 (1999); (2) whether that fifth stated narrow exception discussed in *Foster* is precluded when there is a tertiary relationship (*id.*, p 704) between the purchasing entity and the purchased entity; (3) whether the continuity of enterprise doctrine as discussed in *Foster* has application beyond product liability cases; and if so, (4) the applicability, under the facts of this case, of the continuity of enterprise doctrine.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 7, 2006

Corbin R. Davis

Clerk